

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of Southern California Edison Company (U 338 E) Regarding the Future Disposition of the Mohave Generating Station.

Application 02-05-046

**ADMINISTRATIVE LAW JUDGE'S RULING  
REQUESTING ADDITIONAL TESTIMONY AND DIRECTING  
PARTIES TO MEET AND CONFER ON  
PARTICIPATING IN VOLUNTARY ARBITRATION**

**Summary**

This ruling requests additional testimony on the projected costs and timelines for the following options for Mohave Generating Station (Mohave): (1) shutdown of the plant by year end 2005; (2) installation of required pollution controls and other necessary, related capital improvements, temporary shut-down, and repowering of the plant as a coal-burning facility, including repairing/rebuilding the slurry pipeline; (3) construction and operation of an Integrated Gasification Combined Cycle facility; (4) use of renewables in California or Arizona to replace Mohave power; (5) replacement of Mohave with a natural gas, as opposed to coal gas, burning facility; and (6) amount and quality of coal remaining at Black Mesa for use in direct combustion or IGCC generation.

In addition, Southern California Edison Company (Edison), Black Mesa Coal Pipeline, Inc. (Black Mesa), Peabody Western Coal Company (Peabody), the Navajo Nation, the Hopi Tribe, and the Salt River Project Agricultural

Improvement and Power District (SRP) are directed to meet and confer to determine if the parties are willing to participate in a voluntary mediation process on addressing funding for a feasibility study of the C-Aquifer. The initial mediation would be at the Commission, conducted by an administrative law judge not already assigned to this proceeding, and would focus on this discreet issue.

### **Background**

Edison filed an application on May 17, 2002, seeking direction from the Commission on the future disposition of the Mohave.

Mohave is a base-load, coal-fired power plant comprised of two 790 MW steam generating units with a combined rating of 1,580 MW, located in Laughlin, Nevada. Edison is the majority owner and an operator of the facility.<sup>1</sup> Mohave burns coal that is mined at the Black Mesa Coal Mine (Mine), located on lands that belong to the Navajo Nation and Hopi Tribe. The mining is done by Peabody and the coal is then transported 273-miles from the mine to Mohave via a slurry pipeline, the Black Mesa pipeline, owned and operated by Black Mesa. The pipeline requires that the coal be pulverized and mixed with water to form the slurry mixture. The water for the slurring process and for all other water requirements of the mine comes from an underground aquifer, the N-Aquifer, underlying the Navajo and Hopi reservations. The N-Aquifer is the major source of water for the municipal, domestic, livestock, and irrigation needs of the Navajo Nation and Hopi Tribe.

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<sup>1</sup> The Mohave Generating Station is jointly owned by Edison, the Salt River Project, Nevada Power Company, and the Los Angeles Department of Water and Power, with their interests 56%, 20%, 14%, and 10%, respectively.

Parties are concerned that Mohave might not continue to operate after 2005. The Coal Supply Agreement Edison has with Peabody expires at the end of 2005. The Mine is Mohave's only source of coal, and Mohave is the only purchaser of coal from the Mine. A resolution to the post-2005 coal supply, including quality, quantity and cost, must be reached for the plant to continue as a coal-burning facility.

In addition, Mohave was specifically designed to burn slurried coal. The Hopi Tribe vehemently opposes continued use of the N-Aquifer water supply to slurry the coal to Mohave. The Hopi are concerned that if the N-Aquifer continues to be used for the slurry, the Hopi Tribe will not have sufficient quantities of water for the domestic needs of the tribes.

Besides the water and coal issues, there are environmental problems that will not allow Mohave to continue to operate post 2005 as a coal-burning plant unless it spends approximately \$1.2 billion on pollution control equipment. As part of the settlement of a federal civil lawsuit, Mohave entered into a consent degree<sup>2</sup> whereby certain pollution control equipment must be installed or Mohave cannot continue as a coal-burning facility after 2005. If the equipment is not installed, the plant must close; if the equipment is in the process of being installed, the plant must cease operations at the end of 2005 and may not re-open until the installation is completed. Any cessation of operation and the associated residual costs, when combined with the cost of the pollution controls, brings into question the economics of continuing Mohave as a coal-fired plant.

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<sup>2</sup> A federal civil lawsuit, CV-S-98-00305-LDG (RJJ) was filed against Edison and the other Mohave co-owners in 1998 alleging various air quality violations at the plant. The lawsuit was settled by a 1999 consent decree.

Mohave employs approximately 355 people at the facility, 285 who are represented by the Utility Workers Union of America (UWUA). The mine and pipeline, combined, employ approximately 270 people, 220 who are represented by United Mine Workers of America (UMWA). Any cessation of operation at either the mine or the plant, including a permanent shut-down of Mohave, will have devastating effects on the workers, their families, their community, and the economic viability of the area.

After reviewing numerous rounds of comments and testimony by the parties, the Commission is convinced that resolution of the water supply issue is the next step in the critical path to determine the future fate of Mohave. Even though the coal supply issue is yet unresolved, the parties have indicated that if a satisfactory water supply substitute for the N-Aquifer is found, negotiations on the coal issue can promptly conclude. At this point in the application process the parties agree that the most promising source of replacement water for the N-Aquifer is the C-Aquifer. The next necessary step is to fund a C-Aquifer feasibility study to determine if the C-Aquifer is capable of providing an alternative water supply in an environmentally responsible manner. The U.S. Bureau of Reclamation (BOR) will conduct the feasibility study and subsequent environmental work as soon as the required funds are advanced.

BOR has already conducted an appraisal study of the C-Aquifer that did not find any impediments to using it. However this study was not based on specific ground or field tests. Edison's supplemental testimony on the water issues informs us that the BOR has determined what the study must include and divides it in to three components: (1) a feasibility study, examining the relevant hydrology, geology, and water quality in order to assess the feasibility of using the C-Aquifer for these purposes; (2) an environmental assessment to determine

any potential environmental impacts from the development of the well field and pipeline as well as the withdrawal of the water; and (3) preliminary engineering of the well field and pipeline.

The BOR has estimated that the cost of the C-Aquifer feasibility study is \$2.25 million and would involve the drilling of test wells, geophysical investigations, updating groundwater modeling, preliminary Endangered Species Act analysis, and preliminary design work and cost estimation for the well fields and pipeline. The BOR estimates an additional \$1.7 million will be needed to prepare an Environmental Impact Statement (EIS) for that project, for a total of \$3.95 million.

### **Mediation**

While there is a consensus among the parties that the feasibility study should be done, there is no agreement as to who should pay for the study. In its July 1, 2003, filing, Peabody requests that the Commission establish a mediation process to expedite the negotiation of this issue among the parties. While Peabody posits that although there are numerous issues that the parties must still resolve, Peabody also agrees that the C-Aquifer solution must be addressed first to see if it is a feasible, reliable, and economic substitute for the N-Aquifer. Thus the need to fund the feasibility study.

However, Edison is the only party subject to the Commission's jurisdiction, but it is not the only stakeholder in this proceeding. While we could order Edison to participate in mediation to resolve how the feasibility study is funded, mediation often is more effective if the parties voluntarily participate. On the other hand, while we cannot order Peabody, the Navajo Nation, the Hopi Tribe, SRP, and Black Mesa to engage in mediation, they each have an economic stake in whether Mohave continues as a coal-burning plant. We therefore

encourage Peabody, the Navajo Nation, the Hopi Tribe, SRP, Black Mesa, and Edison, to inform the Commission if each party is willing to voluntarily participate in mediation, at the Commission, facilitated by a judge not assigned to the proceeding, on the discreet issue of how the C-Aquifer feasibility study should be funded.

Peabody also suggested that there be a more involved mediation process utilizing a professional mediator,<sup>3</sup> that would address all of the other pending issues, such as royalties, Peabody's mine plan, the terms of a coal agreement, rights-of-way, and a back-up water supply for the C-Aquifer. If the parties are willing to participate in a voluntary mediation at the Commission, they can take that opportunity to decide if mediation is efficacious, and if so, whether to utilize Commission resources or a professional mediator.

### **Meet and Confer**

Edison is directed to initiate a meet and confer,<sup>4</sup> that includes SRP, Peabody, Black Mesa, the Hopi Tribe, and the Navajo Nation, for the purpose of discussing each party's willingness to participate in voluntary mediation at the Commission on the discreet issue of contributions to the cost of the C-Aquifer feasibility study.<sup>5</sup> If parties are willing to mediate, the Commission needs three dates, within the next 45 days, when the participating parties are available to

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<sup>3</sup> Peabody offered to fund the cost of the mediation, up to \$1.5 million, with other parties paying a pro-rata share of any amounts in excess of that amount.

<sup>4</sup> The meet and confer may be in person, by conference call, e-mail, or in any manner that allows the parties to accomplish the goal of a meet and confer.

<sup>5</sup> The resulting study will become part of the public record in this proceeding.

meet. This meet and confer is to take place within 10 days of the date of this ruling, and the results of the meeting are due within 15 days of this ruling.

### **Additional Briefing**

Edison had already provided two critical path time-lines,<sup>6</sup> one that assumes all owners and their regulatory agencies will agree to interim funding while final approval is being processed, and one that does not. Under both scenarios, Edison projected that the plant would not return to service until the third quarter 2009 at the earliest. The Hopi Tribe and Navajo Nation provided an alternative critical path time-line, with the plant returning to service at the end of 2007.

In addition, Edison has provided rough estimates of the money required to install the required pollution controls and related capital improvements. Edison has also provided rough estimates of the cost of closing the plant.

The Commission is interested in analyzing the costs associated with a number of scenarios for the Mohave facility and needs a detailed breakdown of the following costs and projected timelines: (1) closing the facility at the end of 2005, without doing any of the pollution controls, including all the related employee costs, lost tribal revenue, accelerated return on investment etc.; (2) installing the required pollution controls and other related improvements, as well as the costs of closing the plant until the plant is in full compliance with the consent decree, and the costs of re-powering the facility as a coal-burning plant,

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<sup>6</sup> These critical path time-lines, referenced as the Draft Gantt Charts: Mohave Life Extension, with interim funding and without interim funding, were attached as an exhibit to Edison's rebuttal testimony regarding water supply issues, Exhibit No. SCE-11, witness, Nadar H. Mansour, served May 20, 2003.

including any repairs or rebuilding required on the slurry pipeline, and any costs associated with a new water pipeline to the C-Aquifer, and who would be responsible for those costs; (3) constructing and operating an Integrated Gasification Combined Cycle (IGCC) facility, including acquisition of the site, permits, environmental reviews, timelines, potential for carbon sequestration, and employment opportunities associated with the building and then the operation and maintenance of the IGCC; comments should distinguish between an IGCC facility producing at the mine (with additional electrical transmission costs) and a gasification facility located at the mine that transports the gas via pipeline (i.e., the present slurry pipeline reburbished for this purpose) to a generation facility at the present Mohave site; (4) using renewables in California or Arizona to replace Mohave power in whole or in part, including type and location of power source with associated transmission needs; (5) replacing or converting Mohave to a natural gas burning facility, either at the Mohave site or elsewhere; and (6) the amount of coal remaining for use in either a direct combustion or IGCC facility, and the quality of that coal and its implications for plant performance.

Edison may not have cost estimates and breakdowns for options not set forth in their application. For the Edison proposed options, closing the plant or doing the required pollution controls, Edison is to supplement the costs estimates and timelines to allow other parties and the Commission to do a thorough analysis, and when hearings are scheduled, cross-examination. Any party that is interested in promoting any of these alternatives, or any others not yet advanced by the parties, should provide the requested testimony to facilitate the Commission's review and analysis of potential options and their associated costs and timelines, and whether they are possible and prudent choices.



The additional testimony is due September 19, 2003, and rebuttal testimony is due October 3, 2003.

**IT IS RULED** that:

1. Additional testimony is due September 19, 2003, on the projected costs and timelines for the following options for Mohave Generating Station (Mohave):

(1) shutdown of the plant by year end 2005; (2) installation of required pollution controls and other necessary, related capital improvements, temporary shut-down, and repowering of the plant as a coal-burning facility, including repairing/rebuilding the slurry pipeline; (3) construction and operation of an Integrated Gasification Combined Cycle facility; (4) use of renewables in California or Arizona to replace Mohave power; (5) replacement of Mohave with a natural gas, as opposed to coal gas, burning facility; and (6) amount and quality of coal remaining at Black Mesa for use in direct combustion or IGCC generation.

2. Rebuttal testimony is due October 3, 2003.

3. Southern California Edison Company, Black Mesa Coal Pipeline, Inc., Peabody Western Coal Company, the Navajo Nation, the Hopi Tribe, and Salt River Project Agricultural Improvement and Power District are directed to meet and confer to determine if the parties are willing to participate in a voluntary mediation process on addressing funding for a feasibility study of the C-Aquifer. The initial mediation would be at the Commission, conducted by an administrative law judge not already assigned to this proceeding, and would focus on this discreet issue.

4. The meet and confer is to take place within 10 days of the date of this ruling, and the results of the meeting are due within 15 days of this ruling.

Dated August 22, 2003, at San Francisco, California.

/s/ CAROL A. BROWN

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Carol A. Brown  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Requesting Additional Testimony and Directing Parties to Meet and Confer on Participating in Voluntary Arbitration on all parties of record in this proceeding or their attorneys of record.

Dated August 22, 2003, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.